

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3414 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

APEX INDUSTRIES

Versus

GUJARAT ELECTRICITY BOARD & OTHERS

Appearance:

MR NN PANDYA for Petitioner

None present for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 23/10/96

ORAL JUDGEMENT

Heard learned counsel for the petitioner. It is a case where the respondent Electricity Board for one or other reasons has omitted to recovery the power duty and light duty from the petitioner for the period from 1982 onwards. It is true that prior to that period the petitioner was entitled to exemption from the payment of the aforesaid two duties, but thereafter it was not. It is apparently a case of mistake on the part of the Board

and that mistake has been corrected by demanding from the petitioner the amount of duties payable by it after 1982 under the impugned order. Merely because the respondent Board either on account of inadvertance or on account of the mismanagement failed to recover the power and light duties, the right to recover the same has not come to an end.

None of the legal or fundamental right of the petitioner has been infringed. No interference is called for in the matter. It is a case where in case, the prayer made by the petitioner is allowed, then this court will permit the petitioner for retention of the amount for which otherwise it was not available to it and it will cause loss of the public money. This court will not permit the petitioner to retain the amount which otherwise was legally payable by it to the Electricity Board. Any relief of the nature as prayed by the petitioner is granted in this case then this court will permit the petitioner to have undue and unwarranted benefits.

In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. No order as to costs.

zgs/-